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 BEILLARD; FAS/OSTA FOR BERMAN, HAMILTON, DAWSON, AND
 SHNITZLER; FAS/ONA FOR BERTSCH AND FAS/OFSO FOR WAINIO

E.O. 12958: DECL: 04/06/2019
 TAGS: [ECON](#) [ETRD](#) [EAGR](#) [PGOV](#) [PREL](#) [TW](#)
 SUBJECT: U.S. TRADE DELEGATION PURSUES BROAD AGENDA WITH
 TAIWAN OFFICIALS

REF: A. TAIPEI 26
 1B. 1999 TAIPEI 2083
 1C. 2008 STATE 116588
 1D. 2007 TAIPEI 2257
 1E. 2007 TAIPEI 2326
 1F. 2007 TAIPEI 2595

Classified By: Stephen M. Young, AIT Director, for reasons 1.4 (b) and (d).

1. (C) SUMMARY. In April 1-3 meetings with Taiwan officials, a visiting interagency U.S. trade delegation stressed U.S. interest in concrete progress on beef, rice, pork, maximum residue levels (MRLs), and other agricultural market access issues (septel) as a prelude to reinvigorating the overall bilateral trade agenda. The U.S. delegation cautioned Ministry of Education officials against pursuing protectionist &Buy Taiwan procurement policies. Taiwan trade officials said the Legislative Yuan (LY) is likely to approve Taiwan's accession to the WTO Government Procurement Agreement (GPA) before the current session ends in June. They also noted that Internet Service Provider (ISP)-related amendments to the Copyright Act will likely be passed by the LY during the same time period. END SUMMARY.

Participants

2. (SBU) Deputy Assistant USTR Eric Altbach, AIT/Washington Trade and Commercial Programs Director Rick Ruzicka, and Department of Commerce Country Desk Officer for Korea Brenda Carter-Nixon visited Taipei on April 1-3, and on April 3 were joined by USDOC International Trade Administration Deputy Assistant Secretary for Asia Ira Kasoff. Members of an interagency agricultural delegation (septel) also joined in some of the meetings. Septel will review Taiwan officials'

briefings on the status of the planned Economic Cooperation Framework Agreement (ECFA) with the PRC.

TIPO: Copyright, Patent Act Changes Moving Forward

¶3. (SBU) On April 1, Altbach started his visit discussing outstanding IPR-related issues with Wang Mei-hua, Director General, Ministry of Economic Affairs Intellectual Property Office (TIPO). Wang confirmed that the LY would consider ISP-related amendments to the Copyright Act (ref A) with no further amendments. She predicted the LY will complete the second of three readings of the amended Act before the end of next week, with passage likely shortly thereafter.

¶4. (C) Altbach asked about the status of proposed amendments to the Patent Act TIPO drafted, in response to U.S. and EU concerns about Taiwan's use of compulsory licensing in a case involving Philips Electronics (ref A). In response, Wang said the latest changes to the amendments include limiting the use of compulsory licensing to national emergencies only. This would eliminate the authorities' ability to issue a compulsory license when the two sides have merely failed to reach commercial terms, and allow TIPO to make a decision on compensation at the same time as it grants the license. Wang said both the EU and Philips Electronics are satisfied with the resulting amendments. (Note: On April 6, we spoke with Philips Electronics Taiwan's General Manager James Li and Adam Gagen of the European Economic and Trade Office in Taipei. Both agreed the current proposed draft is improved, but added TIPO has not addressed several other problems in the draft proposal. Both said they are not satisfied with the current version. End note.)

¶5. (SBU) According to Wang, TIPO will finish its administrative review of the draft amendments before the end of April, hold another hearing for stakeholders soon thereafter, and send the amendments to the EY for approval in July. Wang predicted the LY will consider the amendments shortly after submission, but she did not estimate when the LY would pass them into law.

¶6. (SBU) Wang reiterated a longstanding TIPO request for the United States to allow Taiwan to abolish the Trademark Monitoring System (TMS) that Taiwan implemented in 1994 in response to U.S. pressure to prevent export of infringing products. Wang said the TMS--a registry of trademarks originally intended as a reference tool for customs officials-- &has no function anymore8 because all customs offices are directly connected by Internet to the entire TIPO database of trademarks. Altbach said he would pass TIPO's request to the USTR Office of Intellectual Property and Innovation for consideration.

MOEA: Let's Move Beyond Beef

¶7. (C) Ministry of Economic Affairs (MOEA) Vice Minister and Office of Trade Negotiations (OTN) Chief Negotiator John Deng said the Ma administration is pushing all agencies to improve trade relations with the United States. He told Altbach the recent decision to remove Taiwan from the Special 301 IPR Watch List &gives Taiwan a reason8 to respond positively to the United States on other economic issues, and said Taiwan wants to convey a &positive signal8 by finding ways to increase cooperation with the new Obama administration. Deng, however, stressed the U.S. should have patience on outstanding agricultural issues such as beef and pork (septel). He urged the U.S. to &move beyond8 beef and broaden bilateral economic engagement.

¶8. (C) Deng agreed with Altbach that Taiwan must implement the 1999 maximum residue level (MRL) agreement signed with the U.S. (ref B), but wondered aloud why the agreement had resurfaced as an issue after a decade. He claimed stakeholders in Taiwan will complain that the U.S. is &over interpreting8 the agreement. Altbach responded that

both sides signed the 1999 agreement, and therefore both sides need to work through it to find and fix areas that are no longer relevant (septel). Deng then turned to the issue of Taiwan,s continuing refusal to buy U.S. rice under the quota system instituted upon Taiwan,s accession to the WTO in 2002 and revised to set Country Specific Quotas (CSQs) in 2007 (ref C). He said the Taiwan authorities, especially in the current economic downturn, cannot spend government money on buying rice at a higher price than available elsewhere. More details of Altbach meetings with Taiwan officials on agricultural issues will be reported septel.

¶9. (SBU) Deng told Altbach the Legislative Yuan (LY) will likely approve by early May Taiwan,s accession to the WTO Government Procurement Agreement (GPA) (ref D), allowing the Ma administration to deposit Taiwan,s accession documents with the WTO GPA committee by May 9, and officially accede to the Agreement on June 9.

¶10. (C) Deng said Taiwan remains interested in signing a Bilateral Investment Agreement (BIA) with the U.S. Altbach noted that U.S. policy on investment agreement in general is now under review.

NSC Eager to Build Trade Relationship

¶11. (C) In an April 2 meeting with DDIR, Altbach, and other members of the delegation, National Security Council (NSC) Deputy Secretary General Ho Szu-yin said President Ma and NSC Secretary General Su Chi are "eager to solve" all outstanding agricultural market access problems with the U.S. He hoped a future bilateral agreement could avoid similar trade disputes by handling possible contingencies. On beef, Altbach reiterated U.S. interest in a prompt decision for full market opening, and said a phased opening of Taiwan's market would not be acceptable. Ho affirmed that President Ma and Secretary General Su Chi both clearly understood the U.S. position against a phased or partial opening.

BNHI Mulling Limited Price Reforms

¶12. (SBU) Altbach,s meeting with Taiwan Department of Health (DOH) Bureau of National Health Insurance (BNHI) primarily covered new-drug pricing reform, a longstanding concern for U.S. and other foreign drug manufacturers. BNHI Vice President Cheng-hwa Lee told Altbach a December 2008 drug pricing conference created a partial consensus to reform Taiwan,s new-drug pricing policies. Such reform would include a BNHI agreement to pay the international median price for drugs proven to be &breakthrough8 drugs, and a commitment to pay for ethnic-related bridging studies for companies that agree to conduct a certain level of clinical trials in Taiwan.

¶13. (SBU) Lee said BNHI, however, has not yet been able to reach stakeholder consensus on a proposal by U.S. and other original-drug manufacturers that BNHI not conduct Price-Volume Surveys (PVS) on most new drugs, but instead slash prices on off-patent drugs through more frequent use of PVS. Lee said the plan makes sense from a market perspective, but BNHI needs time to create consensus among hospitals and local drug manufacturers. To do so, Lee said the Bureau will hold two pricing-related meetings with stakeholders in April to explain further the pricing proposal, as well as set out BNHI,s principles and guidelines for the ongoing sixth PVS. Lee hopes foreign pharmaceutical companies can reach consensus on pricing reforms with the local drug industry and hospitals. If such consensus could be reached in the next few months, he said, BNHI would still have time to include changes in the sixth PVS.

¶14. (SBU) Lee addressed U.S. concerns about how few new &breakthrough8 drugs, which deserve higher reimbursement prices, are being classified in Taiwan. Lee said BNHI, at the suggestion of both foreign and local companies, is working to

bring Taiwan,s definition of &breakthrough8 more in line with policies used in advanced markets such as France and Canada. Lee pointed out, however, that Taiwan,s health authorities are aiming at a definition that will be narrow enough to ensure that generic, &me-too8 drugs cannot claim breakthrough status.

¶15. (SBU) Regarding Standard Contracts, BNHI President Chu Tzer-ming reminded the U.S. delegation that the LY is still considering amendments to the NHI Law that would require hospitals to use a BNHI-designated Standard Contract for all pharmaceutical purchases (ref E). Chu asked the U.S. to support the bill,s passage in the LY, and to push the U.S. pharmaceutical industry in Taiwan to do the same. (Note: U.S. industry, which originally pushed for Taiwan to implement a Standard Contract, objects to some language in the Standard Contract draft. End note.)

¶16. (SBU) On Separation of Dispensing and Prescribing (SDP), Lee said Taiwan would need to amend its Pharmacist Act to vertically disintegrate pharmacies from hospitals, but that physicians and hospitals are still strongly opposed to this change. (Note: Hospitals in Taiwan typically run on-site pharmacies that, due to the often large gap between drug prices and the BNHI reimbursement price, can fund up to half of the operations of some hospitals (ref E). End note.)

MOE Reservations on Market Access

¶17. (C) Regulations for a foreign university to establish a branch campus in Taiwan are burdensome, and Taiwan authorities do not recognize distance-learning or other programs that grant degrees to students who do not earn at least half of their credits overseas (ref F). During Kasoff and Altbach,s April 3 meeting with Ministry of Education (MOE) Deputy Minister Lu Mu-lin, Lu said the MOE has no plans to change current regulations. The Ministry does not think it proper for foreign schools to set up a university in a single building, or for Taiwan people to have a degree from a U.S. university if they have never or rarely been to the United States. Lu did, however, agree to continue discussing with AIT possible legal changes that would allow foreign branch campuses and other more flexible education arrangements.

¶18. (SBU) Altbach raised the issue of a recent MOE memorandum urging high schools and colleges to buy only locally-made supplies, and reiterated the U.S. view that responsible trading partners have an obligation to avoid any such protectionist measures. Lu said the memo only reminded schools of the &option8 to buy locally, and added that, since Taiwan has not yet acceded to the WTO GPA, the memo did not violate Taiwan,s WTO commitments. Lu added, however, that as soon as Taiwan accedes, the MOE will follow all GPA rules.

AmCham policy priorities

¶19. (C) At an April 3 lunch, AmCham representatives expressed frustration that agricultural trade irritants appear to be precluding progress on a bilateral investment agreement (BIA) and other AmCham priorities. Kasoff and Altbach urged AmCham,s support in resolving agricultural market access problems while developing a more active overall bilateral trade agenda.

¶20. (C) COMMENT. The trade delegation visit was a useful means of highlighting U.S. priorities across the full range of the bilateral trade agenda. END COMMENT.

¶21. (U) DAS Kasoff, DAUSTR Altbach, and the remainder of the delegation did not have the opportunity to review this message before leaving Taipei.